

111TH CONGRESS
1ST SESSION

H. R. 3531

To provide protection for children affected by the immigration laws of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2009

Ms. WOOLSEY (for herself, Ms. CLARKE, Ms. KILPATRICK of Michigan, Mr. HONDA, Ms. ROYBAL-ALLARD, and Mr. POLIS of Colorado) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide protection for children affected by the immigration laws of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Humane Enforcement
5 and Legal Protections for Separated Children Act” or the
6 “HELP Separated Children Act”.

7 **SEC. 2. DEFINITIONS.**

8 For the purposes of this Act:

1 (1) APPREHENSION.—The term “apprehen-
2 sion”, in the context of an immigration enforcement-
3 related activity, means government detention, arrest,
4 or custody, or any significant deprivation of an indi-
5 vidual’s freedom of action by government officials or
6 entities acting under agreement with the Depart-
7 ment of Homeland Security for suspicion of viola-
8 tions under the Immigration and Nationality Act (8
9 U.S.C. 1101 et seq.).

10 (2) IMMIGRATION ENFORCEMENT-RELATED AC-
11 TIVITY.—The term “immigration enforcement-re-
12 lated activity” means any government action or ac-
13 tion carried out by an entity under agreement with
14 the government in which—

15 (A) an individual suspected of an immigra-
16 tion violation is apprehended for such violation;
17 or

18 (B) an individual who has been detained
19 on criminal charges is questioned about possible
20 immigration violations.

21 (3) SSA.—The term “SSA” means the appro-
22 priate State or local social service agency, including
23 relevant nongovernmental organizations, child wel-
24 fare agencies, child protective service agencies,

1 school and head start administrators, legal service
2 providers, and hospitals.

3 **SEC. 3. APPREHENSION PROCEDURES FOR IMMIGRATION**
4 **ENFORCEMENT-RELATED ACTIVITIES.**

5 (a) IN GENERAL.—Any immigration enforcement-re-
6 lated activity engaged in by the Department of Homeland
7 Security or by other entities under agreement with the De-
8 partment of Homeland Security for alleged violations
9 under the Immigration and Nationality Act (8 U.S.C.
10 1101 et seq.), which results in the apprehension of at least
11 1 alien shall be carried out in accordance with the proce-
12 dures described in this section.

13 (b) APPREHENSION PROCEDURES.—The Department
14 of Homeland Security and entities under agreement with
15 the Department of Homeland Security shall—

16 (1) conduct an initial review of each individual
17 apprehended in an immigration enforcement-related
18 activity to ascertain whether such individual may be
19 a United States citizen, a lawful permanent resident
20 of the United States, or an alien lawfully present in
21 the United States;

22 (2) if an individual claims to be a United States
23 citizen, a lawful permanent resident of the United
24 States, or an alien lawfully present in the United
25 States, ensure that personnel of the Department of

1 Homeland Security or personnel under agreement
2 with the Department of Homeland Security inves-
3 tigates the individual's claims and considers the indi-
4 vidual for release under section 4(c);

5 (3) notify SSAs of such immigration enforce-
6 ment-related activity not later than 24 hours before
7 the commencement of such activity, specifically noti-
8 fying the SSAs of—

9 (A) the specific area of the State that will
10 be affected; and

11 (B) the languages anticipated may be spo-
12 ken by individuals at the targeted site;

13 (4) if such immigration enforcement-related ac-
14 tivities cannot be planned more than 24 hours in ad-
15 vance, notify SSAs in a timely fashion before the ac-
16 tivity commences or, if this is not possible, imme-
17 diately following the commencement of such activity;

18 (5) provide licensed social workers or case man-
19 agers employed or contracted by the SSAs with on-
20 going confidential access to individuals apprehended
21 by the Department of Homeland Security or any en-
22 tity operating under agreement with the Department
23 of Homeland Security within six hours of the indi-
24 vidual's apprehension—

1 (A) to screen and interview such individ-
2 uals to determine if he or she is a member of
3 a vulnerable population as described in section
4 4(b) or for other humanitarian concerns; and

5 (B) to offer confidential psychosocial and
6 mental health services to children and family
7 members of such individuals at the time of the
8 apprehension;

9 (6) notify local law enforcement of the specific
10 area of the State that will be affected by such immi-
11 gration enforcement-related activity not later than
12 24 hours before the commencement of such activity
13 or, if such immigration enforcement-related activity
14 cannot be planned more than 24 hours in advance,
15 notify local law enforcement in a timely fashion be-
16 fore the activity commences, or if this is not pos-
17 sible, immediately following the commencement of
18 such activity;

19 (7) coordinate with qualified medical personnel
20 within six hours of the individual's apprehension
21 to—

22 (A) conduct medical screenings of the indi-
23 viduals subject to the immigration enforcement-
24 related activity; and

1 (B) identify and report any medical or
2 other issues that might necessitate release as a
3 member of a vulnerable population or emer-
4 gency assistance;

5 (8) require personnel of the Department of
6 Homeland Security and any entity operating under
7 agreement with the Department of Homeland Secu-
8 rity to avoid the apprehension of persons on the
9 premises or in the immediate vicinity of day care
10 centers, head start centers, schools, school bus stops,
11 recreation centers, legal service providers, courts, fu-
12 neral homes, cemeteries, colleges, victim services
13 agencies, social service agencies, hospitals, health
14 care clinics, community centers, and places of wor-
15 ship;

16 (9) before transferring any individual appre-
17 hended by the Department of Homeland Security or
18 any entity operating under agreement with the De-
19 partment of Homeland Security to a detention facil-
20 ity, and before transferring any individual appre-
21 hended by the Department of Homeland Security or
22 any entity operating under agreement with the De-
23 partment of Homeland Security outside the region in
24 which the apprehension took place, determine, based
25 on all information available to the Department of

1 Homeland Security, entities operating under agree-
2 ment with the Department of Homeland Security,
3 and the recommendations made by SSAs and med-
4 ical personnel—

5 (A) if the individual is a member of a vul-
6 nerable population as described in section 4(b);
7 and

8 (B) if the individual should be released in
9 accordance with section 4(c);

10 (10) provide, and advertise in the mainstream
11 and foreign language media, as well as make avail-
12 able to the public via the website of the Department
13 of Homeland Security, a toll-free number through
14 which family members of persons apprehended as a
15 result of an immigration enforcement-related activity
16 may report information relevant to the release of an
17 apprehended family member as a member of a vul-
18 nerable population, which will be conveyed to the ap-
19 propriate Department of Homeland Security official
20 and applicable SSA, and through which State child
21 welfare service providers, family members, and legal
22 counsel representing those who are apprehended may
23 obtain information about the apprehended family
24 members, including their location, in English and
25 the majority language of those who are apprehended;

1 (11) if there is reason to believe that an indi-
2 vidual who is apprehended is a parent, legal guard-
3 ian, or primary caregiver relative of a dependent
4 child in the United States, provide this parent, legal
5 guardian, or primary caregiver relative with—

6 (A) confidential and toll-free telephone
7 calls to arrange for care of dependent children
8 within 2 hours of screening;

9 (B) information regarding and contact in-
10 formation for legal service providers, organiza-
11 tions, and attorneys that can offer free legal ad-
12 vice regarding child welfare and custody deter-
13 minations; and

14 (C) information regarding and contact in-
15 formation for multiple State and local child wel-
16 fare providers;

17 (12) ensure that personnel of the Department
18 of Homeland Security and of entities operating
19 under agreement with the Department do not—

20 (A) interrogate or screen individuals in the
21 immediate presence of children;

22 (B) interrogate, arrest, or detain any child
23 apprehended with his or her parent or parents
24 without the presence or consent of a parent,

1 family member, legal guardian, or legal counsel;
2 or

3 (C) compel or request children to translate
4 for other individuals who are encountered as
5 part of an immigration enforcement-related ac-
6 tivity;

7 (13) provide all Department of Homeland Secu-
8 rity personnel, personnel from entities under agree-
9 ment with the Department of Homeland Security
10 participating, SSAs, and medical personnel with de-
11 tailed instructions on what steps to take if they en-
12 counter individuals who are a member of a vulner-
13 able population;

14 (14) ensure that the best interests of children
15 are considered in decisions and actions relating to
16 the detention or release of any individual appre-
17 hended by the Department of Homeland Security,
18 and that there be a preference for family unity
19 whenever appropriate;

20 (15) ensure that not fewer than one inde-
21 pendent certified interpreter who is fluent in Span-
22 ish or any language other than English spoken by
23 more than 5 percent of the target population of the
24 immigration enforcement-related activity is available
25 for in-person translation for every 5 individuals tar-

1 geted by an immigration enforcement-related activ-
2 ity, and that the Department of Homeland Security
3 and entities operating under agreement with the De-
4 partment of Homeland Security utilize appropriate
5 translation services where interpreters cannot or
6 have not been retained prior to commencement of an
7 immigration enforcement activity;

8 (16) permit nonprofit legal service providers,
9 organizations, and attorneys to offer free legal serv-
10 ices to individuals subject to an immigration enforce-
11 ment-related activity at the time of the apprehension
12 of such individuals; and

13 (17) provide a legal orientation presentation for
14 any individual apprehended through an immigration
15 enforcement-related activity through the Legal Ori-
16 entation Program administered by the Executive Of-
17 fice for Immigration Review.

18 **SEC. 4. BASIC PROTECTIONS FOR VULNERABLE POPU-**
19 **LATIONS.**

20 (a) IN GENERAL.—Not later than 48 hours after the
21 commencement of an immigration enforcement-related ac-
22 tivity, the Department of Homeland Security shall, based
23 on all information available to the Department of Home-
24 land Security, entities operating under agreement with the
25 Department of Homeland Security, and the recommenda-

1 tions made by SSAs and medical personnel, determine if
2 each individual apprehended through the activity belongs
3 to any of the groups listed in subsection (b).

4 (b) VULNERABLE POPULATION GROUPS.—An indi-
5 vidual is eligible for release under subsection (c) if the in-
6 dividual belongs to any of the following groups:

7 (1) Individuals who have serious medical or
8 mental health needs or a disability.

9 (2) Pregnant or nursing women.

10 (3) Individuals who are apprehended with 1 or
11 more of their children, and their children.

12 (4) Sole custodial parents, sole legal guardians,
13 or individuals who have family members who are ill
14 or otherwise require the assistance of a caregiver.

15 (5) Children as defined by section 101(b)(1) of
16 the Immigration and Nationality Act.

17 (6) Individuals who are over 65 years of age.

18 (7) Victims of abuse, violence, crime, or human
19 trafficking.

20 (8) Individuals who have been referred for a
21 credible fear interview, a reasonable fear interview,
22 or an asylum hearing.

23 (9) Individuals who have applied or intend to
24 apply for asylum, withholding of removal, or protec-
25 tion under the Convention Against Torture and

1 Other Cruel, Inhuman or Degrading Treatment or
2 Punishment, done at New York December 10, 1984.

3 (10) Individuals who have a non-frivolous claim
4 to United States citizenship, lawful permanent resi-
5 dent status, or lawful status in the United States.

6 (11) Individuals who are eligible for relief under
7 any provision of the Immigration and Nationality
8 Act (8 U.S.C. 1101 et seq.).

9 (12) Any other group designated in regulations
10 or guidance promulgated by the Secretary of Home-
11 land Security.

12 (c) ELIGIBILITY FOR RELEASE.—

13 (1) Not later than 72 hours after the apprehen-
14 sion of an individual described in subsection (b) by
15 the Department of Homeland Security or any enti-
16 ties operating under agreement with the Department
17 of Homeland Security, he or she shall be released on
18 his or her own recognizance, parole, on a reasonable
19 bond or into a community-based non-custodial alter-
20 natives to detention program and shall not be sub-
21 ject to electronic monitoring, unless the Department
22 demonstrates—

23 (A) the alien is subject to mandatory de-
24 tention under section 235(b)(1)(B)(iii)(IV),
25 236(c), or 236A of the Immigration and Na-

1 tionality Act (8 U.S.C. 1225(1)(B)(iii)(IV),
2 1226(c), and 1226a);

3 (B) the alien poses a danger to others or
4 is a risk to national security; or

5 (C) the alien is a flight risk and any risk
6 of flight cannot be mitigated by supervision or
7 bond.

8 (2) If an alien is determined not to meet the re-
9 quirements for release on recognizance, bond or pa-
10 role, or subsequently does not meet the requirements
11 for non-custodial alternatives to detention programs,
12 the alien may be considered for placement in alter-
13 natives to detention programs that maintain custody
14 over the alien, such as through the use of electronic
15 ankle devices or heightened supervision and moni-
16 toring procedures. The Secretary of the Department
17 of Homeland Security shall make an individualized
18 determination in each alien's case about the use of
19 electronic monitoring and shall review such decision
20 on a monthly basis. Aliens who would otherwise be
21 subject to detention including under INA section
22 236(c) may be placed in electronic monitoring or
23 other secure custodial alternatives to detention that
24 maintain custody over the alien.

1 (3) Decisions under this section shall specify in
2 writing the reasons for the decision and be served
3 upon the individual in their native language within
4 72 hours of the individual’s detention or, in the case
5 of an individual subject to INA sections 235, 238,
6 or 241(a)(5) within 72 hours of a positive credible
7 or reasonable fear determination. Decisions under
8 this section are subject to redetermination at any
9 time by an Immigration Judge.

10 **SEC. 5. CUSTODY DETERMINATION.**

11 (a) AMENDMENT.—Section 236 of the Immigration
12 and Nationality Act (8 U.S.C. 1226) is amended—

13 (1) by redesignating subsection (e) as sub-
14 section (h);

15 (2) by redesignating subsections (b), (c), and
16 (d) as subsections (c), (d), and (e), respectively; and

17 (3) by inserting before subsection (h), as redes-
18 ignated, the following:

19 “(g) RIGHT TO ACCESS COUNSEL.—An individual
20 who has been detained under this section may be rep-
21 resented, at no expense to the Federal Government, by
22 counsel of the individual’s choosing while being subject to
23 any immigration enforcement-related activity, including—

24 “(1) interviews;

25 “(2) processing appointments;

1 “(3) booking or intake questions;

2 “(4) hearings; and

3 “(5) any proceeding which may result in a con-
4 clusion that the individual will be detained or re-
5 moved from the United States.”.

6 (b) NOTICE.—

7 (1) AMENDMENT.—Section 236 of the Immi-
8 gration and Nationality Act, as amended by sub-
9 section (a), is further amended by inserting before
10 subsection (g) the following:

11 “(f) NOTICE AND CHARGES.—

12 “(1) NOTICE.—The Secretary of Homeland Se-
13 curity shall, for each individual detained under this
14 section—

15 “(A) file a notice to appear or other rel-
16 evant charging document with the closest immi-
17 gration court to where the individual was appre-
18 hended; and

19 “(B) serve such notice on the individual
20 not later than 48 hours after the commence-
21 ment of the individual’s detention.

22 “(2) CUSTODY DETERMINATION.—Any indi-
23 vidual who is detained under this section for more
24 than 48 hours shall be brought before an immigra-
25 tion judge for a custody determination not later than

1 72 hours after the commencement of such detention
 2 unless the individual waives such right in accordance
 3 with paragraph (3).

4 “(3) WAIVER.—The requirements under this
 5 subsection may be waived for 7 days if the indi-
 6 vidual—

7 “(A) enters into a written agreement with
 8 the Department of Homeland Security to waive
 9 such requirement; and

10 “(B) is eligible for immigration benefits or
 11 demonstrates eligibility for a defense against re-
 12 moval.”.

13 (2) APPLICABILITY OF OTHER LAW.—Nothing
 14 in 236(f) of the Immigration and Nationality Act, as
 15 added by paragraph (1), may be construed to repeal
 16 section 236A of such Act (8 U.S.C. 1226a).

17 **SEC. 6. CHILD WELFARE SERVICES FOR CHILDREN SEPA-**
 18 **RATED FROM PARENTS DETAINED OR RE-**
 19 **MOVED FROM THE UNITED STATES FOR IM-**
 20 **MIGRATION VIOLATIONS.**

21 (a) STATE PLAN REQUIREMENTS.—Section 471(a)
 22 of the Social Security Act (42 U.S.C. 671(a)) is amend-
 23 ed—

24 (1) by striking “and” at the end of paragraph
 25 (32);

1 (2) by striking the period at the end of para-
2 graph (33) and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(34) provides that the State shall—

5 “(A) create and implement protocols to
6 provide guidance on how all employees of State
7 agencies providing services to children under
8 the State plan should handle cases of separated
9 children that take into account the best interest
10 of the child, including consideration of the best
11 outcome for the family of the child;

12 “(B) develop and implement memoranda of
13 understanding or protocols with the Depart-
14 ment of Homeland Security, Federal, State,
15 and local government agencies to facilitate com-
16 munication between the agencies and such a
17 child, a parent, guardian, or relative referred to
18 in section 475(9)(B), family members of such a
19 child, family courts, providers of services to
20 such a child under the State plan, providers of
21 long-term care to such a child, and legal rep-
22 resentatives of such a child or of such a parent,
23 guardian, or relative;

24 “(C) develop and implement joint protocols
25 and training with law enforcement agencies to

1 minimize the trauma, at the time of the appre-
2 hension of such a parent, guardian, or relative,
3 to a child who will become a separated child as
4 a result of the apprehension, including protocols
5 and training for apprehension of such a parent,
6 guardian, or relative in the presence of the child
7 and how to best ensure appropriate and prompt
8 care arrangements for the child;

9 “(D) ensure that the case manager for
10 such a child is capable of communicating in the
11 native language of the child and of the family
12 of the child, or an interpreter who is so capable
13 is provided to communicate with the child and
14 the family of the child at no cost to the child
15 or the family of the child;

16 “(E) require that, in all decisions and ac-
17 tions relating to the care, custody, and place-
18 ment of such a child, the best interest of the
19 child, including the best outcome for the family
20 of the child, be considered, and ensure that the
21 decisions are based on clearly articulated fac-
22 tors that do not include predictions or conclu-
23 sions about immigration status or pending Fed-
24 eral immigration proceedings;

1 “(F) coordinate with the Department of
2 Homeland Security to ensure that parents of
3 such a child who wish for the child to accom-
4 pany them to their country of origin are given
5 adequate time to obtain a passport and visa,
6 collect all relevant vital documents such as birth
7 certificate, health and educational records, and
8 other information;

9 “(G) preserve, to the greatest extent pos-
10 sible, the privacy and confidentiality of all infor-
11 mation gathered in the course of administering
12 the care, custody, and placement of, and follow-
13 up services provided to, such a child, consistent
14 with the best interest of the child, by not dis-
15 closing such information to other government
16 agencies or persons (other than such a parent,
17 guardian, or relative), except that the head of
18 the State agency (or the designee of the head)
19 may disclose such information—

20 “(i)(I) when authorized to do so by
21 the child (if the child has attained 18 years
22 of age) if the disclosure is consistent with
23 the best interest of the child; or

1 “(II) to a law enforcement agency if
 2 the disclosure would prevent imminent and
 3 serious harm to another individual; and

4 “(ii) if such information is shared, all
 5 disclosures shall be duly recorded in writ-
 6 ing and placed in the file of the child; and

7 “(H) not less frequently than annually,
 8 compile, update, and publish a list of entities in
 9 the State who are qualified to provide guardian
 10 and legal representation services for such a
 11 child in a language the child can read and un-
 12 derstand.”.

13 (b) ADDITIONAL INFORMATION TO BE INCLUDED IN
 14 CASE PLAN.—Section 475(1) of such Act (42 U.S.C.
 15 675(1)) is amended by adding at the end the following:

16 “(H) In the case of a separated child with
 17 respect to whom the State plan requires the
 18 State to provide services pursuant to section
 19 471(a)(34)—

20 “(i) the location of the parent, guard-
 21 ian, or relative referred to in paragraph
 22 (9)(B) of this subsection from whom the
 23 child has been separated; and

24 “(ii) a written record of each disclo-
 25 sure to a government agency or person

1 (other than such a parent, guardian, or
2 relative) of information gathered in the
3 course of tracking the care, custody, and
4 placement of, and follow-up services pro-
5 vided to, the child.”.

6 (c) SEPARATED CHILD DEFINED.—Section 475 of
7 such Act (42 U.S.C. 675) is amended by adding at the
8 end the following:

9 “(9) The term ‘separated child’ means an indi-
10 vidual who—

11 “(A) is a citizen or lawful permanent resi-
12 dent of, or an alien lawfully present in, the
13 United States;

14 “(B) has a parent, legal guardian, or pri-
15 mary caregiver relative who has been detained
16 by a Federal, State, or local law enforcement
17 agency in the enforcement of an immigration
18 law, or removed from the United States as a re-
19 sult of a violation of such a law; and

20 “(C) is in foster care under the responsi-
21 bility of a State.”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the 1st day of the 1st cal-
24 endar quarter that begins after the 1-year period that be-
25 gins with the date of the enactment of this Act.

1 **SEC. 7. REPORT ON PROTECTIONS FOR VULNERABLE POP-**
2 **ULATIONS IMPACTED BY IMMIGRATION EN-**
3 **FORCEMENT ACTIVITIES.**

4 (a) REQUIREMENT FOR REPORTS.—Not later than 1
5 year after the date of the enactment of this Act, and annu-
6 ally thereafter, the Secretary of Homeland Security shall
7 submit a report to Congress that describes the impact of
8 immigration enforcement activities and fugitive operations
9 on United States citizens, lawful permanent residents, in-
10 dividuals otherwise lawfully present in the United States,
11 and, where possible, undocumented aliens present in the
12 United States.

13 (b) CONTENT.—The report submitted under sub-
14 section (a) shall include an assessment of—

15 (1) the number of individuals apprehended dur-
16 ing immigration enforcement-related activities who
17 are children, United States citizens, lawful perma-
18 nent residents, lawfully present non-citizens;

19 (2) immigration-related apprehensions at
20 homes, schools, school bus stops, day care centers,
21 colleges, places of worship, hospitals, health care
22 clinics, funeral homes, cemeteries, victim services
23 agencies, social services agencies, head start centers,
24 recreation centers, legal service providers, courts and
25 community centers;

1 (3) apprehensions, detentions, and removals of
2 sole caregivers, primary breadwinners, pregnant and
3 nursing mothers, and other vulnerable groups during
4 an immigration enforcement-related activity;

5 (4) the extent to which the Department of
6 Homeland Security cooperates and coordinates with
7 State and local law enforcement during immigration
8 enforcement-related activities;

9 (5) the number of immigration enforcement-re-
10 lated apprehensions resulting from cooperation with
11 State and local law enforcement;

12 (6) whether apprehended individuals are pro-
13 vided access to a telephone;

14 (7) how quickly apprehended individuals are
15 provided access to a telephone;

16 (8) the manner through which family members
17 of the target population of the immigration enforce-
18 ment-related activity are notified of their family
19 member's detention;

20 (9) the number of parents, guardians, or care-
21 givers of children removed from the United States;

22 (10) the number of parents, guardians, or care-
23 givers of children removed from the United States
24 whose children accompany or join them;

1 (11) the number of parents, guardians, or care-
2 givers of children removed from the United States
3 who are removed without their children;

4 (12) the number of occasions on which both
5 parents of a particular children are removed from
6 the United States without their children;

7 (13) the length of time the parents, guardians,
8 or caregivers of children were present in the United
9 States before their removal from the United States;

10 (14) the number of United States citizen chil-
11 dren that remain in the United States after the re-
12 moval of a parent, guardian, or caregiver;

13 (15) the number of individuals apprehended de-
14 termined to be part of a vulnerable population re-
15 leased within specified time limit under section 4(c);

16 (16) the length of time between when an indi-
17 vidual is determined to be part of a vulnerable popu-
18 lation and that individual is released under section
19 4(c);

20 (17) the methodology of the Department of
21 Homeland Security for notifying agents and entities
22 under agreement with the Department of Homeland
23 Security about standards regarding enforcement ac-
24 tions concerning vulnerable populations and holding
25 them accountable when such standards are violated;

1 (18) the number of officials of the Department
2 of Homeland Security disciplined for violations dur-
3 ing apprehensions and in making detention deci-
4 sions;

5 (19) transfers of immigrants during the course
6 of an immigration enforcement activity, including—

7 (A) whether the immigrants had access to
8 legal counsel before being transferred;

9 (B) whether the immigrant received notice
10 of an impending transfer; and

11 (C) whether the immigrant was evaluated
12 for vulnerability under section 3(b)(9) before
13 being transferred;

14 (20) apprehension procedures for immigration
15 enforcement-related activities, and compliance with
16 screening procedures for vulnerable populations;

17 (21) recommendations for improving immigra-
18 tion enforcement-related activities and fugitive oper-
19 ations by reducing the negative impact on children
20 and vulnerable populations; and

21 (22) alternatives to detention programs, includ-
22 ing the types of programs used, number of individ-
23 uals placed in these programs, reasons for not plac-
24 ing immigrants that qualify as a member of a vul-
25 nerable population as defined in section 4(b) in these

1 programs, percentage of cases in which adjustment
2 of immigration status is granted, percentage of cases
3 in which removal is undertaken, and frequency of
4 absconding.

5 **SEC. 8. VULNERABLE POPULATION AND CHILD WELFARE**
6 **TRAINING FOR IMMIGRATION ENFORCEMENT**
7 **OFFICERS.**

8 (a) MANDATORY TRAINING.—

9 (1) IN GENERAL.—The Secretary of Homeland
10 Security, in consultation with the Secretary of
11 Health and Human Services, and independent child
12 welfare experts shall mandate live specialized train-
13 ing of all Federal personnel, relevant personnel em-
14 ployed by those States reimbursed for activities re-
15 lated to care and services for separated children, and
16 State and local personnel and relevant SSAs, who
17 come into contact with vulnerable populations as de-
18 fined at section 3(b) in all relevant legal authorities,
19 policies, and procedures pertaining to the humani-
20 tarian and due process protections for these vulner-
21 able populations.

22 (2) VULNERABLE POPULATIONS.—Such per-
23 sonnel shall be trained to work with vulnerable popu-
24 lations, including identifying members of a vulner-
25 able population, and identifying members of a vul-

1 nerable population for whom asylum or special juve-
2 nile immigrant relief may be appropriate.

3 (3) BEST PRACTICES.—Participants will be re-
4 quired to undertake periodic and continuing training
5 on best practices and changes in the law, policies,
6 and procedures for these vulnerable populations.

7 (b) MEMORANDA OF UNDERSTANDING.—The Sec-
8 retary of Homeland Security shall require all law enforce-
9 ment agencies under agreement with the Department of
10 Homeland Security to establish Memoranda of Under-
11 standing with SSAs with respect to the availability of serv-
12 ices relevant to the humanitarian and due process protec-
13 tions for vulnerable populations as defined in section 4(b).

14 **SEC. 9. ACCESS FOR PARENTS, LEGAL GUARDIANS, AND,**
15 **PRIMARY CAREGIVER RELATIVES.**

16 (a) IN GENERAL.—The Secretary of the Department
17 of Homeland Security shall ensure that all detention facili-
18 ties operated by or under agreement with the Department
19 take steps to preserve family unity and ensure that the
20 best outcome for families can be considered in decisions
21 and actions relating to the custody of children whose par-
22 ent, legal guardian, or primary caregiver relative is de-
23 tained by reason of the parent's, legal guardian's, or pri-
24 mary caregiver relative's immigration status.

1 (b) TRAINING.—The Secretary of Homeland Secu-
2 rity, in consultation with the Department of Health and
3 Human Services, the Department of Justice, the Depart-
4 ment of State, and independent family law experts, shall
5 mandate live, specialized training of all personnel at deten-
6 tion facilities operated by the Department of Homeland
7 Security or under agreement with the Department of
8 Homeland Security in all relevant legal authorities, poli-
9 cies and procedures related to ensuring that parents, legal
10 guardians, and primary caregiver relatives of children
11 have regular, ongoing and in-person access to children,
12 State family courts, consular officers and staff of State
13 social service agencies responsible for administering child
14 welfare programs. Such personnel shall be required to un-
15 dertake periodic and continuing training on best practices
16 and changes in relevant law, policies, and procedures per-
17 taining to the preservation of family unity.

18 (c) ACCESS TO CHILDREN, LOCAL AND STATE
19 COURTS, CHILD PROTECTIVE SERVICES, AND CONSULAR
20 OFFICIALS.— The Secretary of Homeland Security shall
21 be responsible for—

22 (1) ensuring that detained parents, legal guard-
23 ians, and primary caregiver relatives of children
24 under 18 years of age are granted free and confiden-
25 tial phone calls with their children on a daily basis;

1 (2) ensuring that detained parents, legal guard-
2 ians, and primary caregiver relatives of children
3 under 18 years of age are permitted regular contact
4 visits with their children;

5 (3) ensuring that detained parents, legal guard-
6 ians, and primary caregiver relatives of children
7 under 18 years of age are able to participate fully,
8 and to the extent possible in-person, in all family
9 court proceedings and any other proceeding impact-
10 ing upon custody of their children;

11 (4) ensuring that detained parents, legal guard-
12 ians, and primary caregiver relatives of children
13 under 18 years of age are able to fully participate
14 in and comply with all family court orders impacting
15 upon custody of their child;

16 (5) ensuring that detained parents, legal guard-
17 ians, and primary caregiver relatives of children
18 under 18 years of age have regular, on-site access to
19 reunification programming including parenting class-
20 es;

21 (6) ensuring that detained parents, legal guard-
22 ians, and primary caregiver relatives of children
23 under 18 years of age are provided with contact in-
24 formation for child protective services entities and
25 family courts in all fifty States, the District of Co-

1 lumbia, all United States territories, and are granted
2 free, confidential, and unlimited telephone access to
3 child protective services entities and family courts to
4 report child abuse, abandonment or neglect;

5 (7) ensuring that detained parents, legal guard-
6 ians, and primary caregiver relatives of children
7 under 18 years of age are granted regular, confiden-
8 tial and in-person access to consular officials; free,
9 unlimited, confidential phone calls to consular offi-
10 cials; and access to United States passport applica-
11 tions for the purpose of obtaining travel documents
12 for their children;

13 (8) ensuring that detained parents, legal guard-
14 ians, and primary caregiver relatives of children
15 under 18 years of age who wish to take their chil-
16 dren with them to their country of origin are grant-
17 ed adequate time prior to being removed to obtain
18 a passport and other relevant travel documents nec-
19 essary for children to accompany them on their re-
20 turn to their country of origin or join them in their
21 country of origin; and

22 (9) facilitating detained parents', legal guard-
23 ians', and primary caregiver relatives' ability to re-
24 unify with their children under 18 years of age at
25 the time of removal to their country of origin, in-

1 including providing information about the detained
2 parent, legal guardian, or primary caregiver rel-
3 ative's travel arrangements to State social service
4 agencies or other caregivers.

5 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

6 There are authorized to be appropriated such sums
7 as may be necessary to carry out this Act.

8 **SEC. 11. REGULATIONS.**

9 Not later than 6 months after the date of the enact-
10 ment of this Act, the Secretary shall promulgate regula-
11 tions to implement this Act, in accordance with the notice
12 and comment requirements under subchapter II of chapter
13 5 of title 5, United States Code (commonly referred to
14 as the Administrative Procedure Act).

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